

Mr. CRAIG. I thank my colleague for yielding. What is important is the bill be read very thoroughly. Extrapolations can be made. But when it says 100 hours of work, I think it is important to assume you would only work 1 hour a day for 100 days. That is not a very logical process.

I thank the Senator for yielding.

Mr. SESSIONS. I agree with the Senator on that. I will disagree with the concept that somehow, by working here, coming here, and getting a job you wanted to get when you came, that that is somehow earning something, if you did it illegally. You are getting what you wanted, which was pay for the work.

That is what I would point out. Then, a family would be automatically eligible to come into the country. I don't think there is any dispute about that.

If a person came here illegally, if they worked here 18 months and met those qualifications of 100 workdays, or 565 hours, I believe—either way, it is not very much—they can come even though they are not here now. In other words, if they did that illegally, worked here and for some reason went back home, then they are getting a letter from Uncle Sam saying, By the way, we know you violated our law but we are in a forgiving mood. You can come on back and join the process toward citizenship and bring your family, too.

I am not sure that is what we want to do. I don't think it is what we want to do. That is the fundamental of this legislation.

I think that is what you call amnesty. Not only does it give the person what they wanted in terms of being able to come into the country and get a job and be paid, that puts them on a track—unless they get seriously conflicted with the law—to be a permanent resident and then even a citizen, and their children and family can be on that same track.

That is a big deal. That is what I am saying. It is not something we need to be rushing into on this legislation today.

Under section 101(d)(8), entitled "Eligibility for Legal Services," it is required under the act that free, federally funded legal counsel be afforded, through the Legal Services Corporation, to assist temporary workers in the application process for adjustment to lawful permanent resident status.

American workers are not always available for that. They have to meet other standards such as need and that sort of thing.

Also, the act gives several advantages to foreign workers not provided to American workers. Look at this.

Section 101(b), rights of aliens granted temporary resident status.

Right here—temporary resident status.

Terms of employment respecting aliens admitted under this section, A, prohibition.

Quoting:

No alien granted temporary resident status under subsection A may be terminated from employment by any employer during the period of temporary resident status except for just cause.

Then they set up a big process for this. There is a complaint process. The subsection sets out a process for filing complaints for termination without just cause. If reasonable cause exists, the Secretary shall initiate binding arbitration proceedings and pay the fee and expenses of the arbitrator. Attorneys' fees will be the responsibility of each party. The complaint process does not preclude "any other rights an employee may have under applicable law."

That means they could file under this process for unjust termination and hire a plaintiffs lawyer and sue the business for whatever else you want to sue them for.

Any fact or finding made by the arbitrator shall not be conclusive or binding in any separate action—

That is the action filed in the court by plaintiffs' lawyer—

or subsequent action or proceeding between the employee and the employer.

I submit to you, by the language of this statute, it would appear they intend for that to be admissible, if not binding. It says not binding but the implication would be it would be admissible.

This means an employer cannot allow that arbitration proceeding to go without an attorney. He will have to hire an attorney and go down there because things will go wrong and that will be used against him in any civil action that might take place. They have to pay counsel in both places.

This section will override State laws in America. In Alabama, unless you enter into a contract that states otherwise for employment, your work for an employer is at will. Contracts of employment at will mean just that: it is the will of either party. Employees can quit at will and employers can terminate at will, with cause or without cause, and for no reason, good or bad reason.

That is the way I think it is in most States. Certainly that is true in my State. This provision will mean illegal aliens who file for amnesty under the AgJOBS amendment, after coming here illegally in violation of our law, are guaranteed to have a job unless they are terminated for just cause. If the AgJOBS amendment passes, employers of aliens given amnesty will be subject to forced and binding arbitration regarding the termination of the alien, and they will have to cover their legal bills for the defense in arbitrations even if the arbitrator finds they had just cause to terminate the alien.

I suggest what we are about here is a provision for greater protection for a foreign worker, one not only who is foreign but who previously violated American law. If you were an employer and you need to lay off one person, and you have two working for you, and one

would have the ability to take you through arbitration and argue that you did not have just cause, and the other one had no such rights, you might fire the American citizen first, not the foreigner.

There is another provision I will talk about later that deals with the filing of the application. The Senator says they will be doing background checks. I see nothing in here that provides for background checks. It requires an application to be filed to become a temporary resident. Get this: It can be filed with two groups who are called "qualified designated entities." That can be an employer group who wants workers to come here to work for them, or a labor group. And they are qualified entities. The application is filed with them.

It prohibits giving the application to the Secretary of Homeland Security unless a lawyer has read it first. It says the entities that receive this application cannot give it to the Secretary unless they are conducting a fraud investigation. How would they know to conduct one if they haven't seen the documents? It might be fraudulent.

It is a rather weird idea, is antigovernment, and seems to be far more concerned with protecting an applicant who may be committing fraud than protecting the security and the laws of the United States.

I yield the floor.

Mrs. FEINSTEIN. Mr. President, I would like to express my opposition to the AgJOBS bill as it is currently drafted.

This is a very complicated bill. It is a magnet for illegal immigration. It has not been reviewed by the Judiciary Committee. We do not know how many people would be affected by it.

Rather, it has come to the floor as an amendment to the supplemental appropriations bill.

This is not the place for this bill. I believe it is a mistake to pass this bill on an emergency supplemental that is designed to provide help for our military, fighting in extraordinary circumstances.

That is why I cosponsored an amendment with Senator CORNYN saying that the place to do these amendments is through the regular order, beginning in the Immigration Subcommittee of the Judiciary Committee. This amendment passed by a vote of 61 to 38.

And that is why I will vote against cloture on the AgJOBS bill and on the other complicated immigration amendment, the Chambliss-Kyl amendment.

If, however, cloture is invoked, then I plan on offering several amendments that I believe will improve the bill.

If these amendments are approved by the full body, or are later incorporated into the bill through an appropriate Judiciary Committee markup, then I would be prepared to support the bill.

But otherwise, it is my intention to vote against the bill. I simply cannot support the bill in good conscience as it is.

I believe the bill as drafted is a huge magnet. The Judiciary Committee has